



SEP 9 2005

Reply to the attention of:

Ms. Laurie Wells  
President, National Hearing Conservation Association  
7995 E. Prentice Avenue  
Suite 100 East  
Greenwood Village, CO 80111-2710

Dear Ms. Wells:

Thank you for your March 15, 2005, letter to the Occupational Safety and Health Administration (OSHA) regarding the requirements for revising baseline audiograms under the Occupational Noise standard, 29 CFR 1910.95. In particular you are requesting further clarification of our May 8, 2003, letter to Ms. Linda Ballas. Your questions have been restated below, followed by our response. This letter constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any question not delineated within your original correspondence.

**Question 1:** Could failure to follow the procedure of revising only the baseline of the affected ear stated in the above interpretation letter lead to citations from OSHA?

**Answer:** Yes. Under 1910.95(g)(9)(i), a baseline may only be revised if there is a standard threshold shift of greater than 10 dB. If a shift occurs in only one ear, then only the baseline for that ear would be permitted to be revised under the standard. As stated in the previous letter, this procedure provides a clear indication of how each ear is affected by noise and can also help identify what noise sources or work procedures may be contributing to the employee's hearing loss.

**Question 2:** Can an employer be cited for not following letters of interpretation, just as they can be cited for not complying with a regulation?

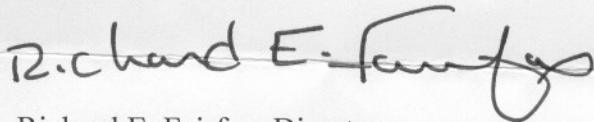
**Answer:** As in this case, standards frequently need further clarification on how a particular provision in a standard is enforced. Interpretation letters are intended to provide that information. These letters are not mere "opinions" as some of your clients have suggested. However, an employer would not be cited for not following the letter itself, but for a violation of the standard to which it refers.

**Question 3:** If an employer has just become aware of the interpretation, how far back must the employer correct to be in compliance?

**Answer:** OSHA will usually look at whether the employer is currently out of compliance and, therefore, the employer would not need to go back further than the previous audiogram and ensure all future audiograms are revised in the same manner.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>. If you have any further questions, please feel free to contact the Office of Health Enforcement at (202) 693-2190.

Sincerely,

A handwritten signature in dark ink, reading "Richard E. Fairfax". The signature is fluid and cursive, with the first name "Richard" and last name "Fairfax" being more legible than the middle initial "E.". The signature is written over a horizontal line.

Richard E. Fairfax, Director  
Directorate of Enforcement Programs